



AGENDA REPORT



TO: Honorable Mayor & City Council

FROM: Councilmember Kevin Jenkins
District 6

SUBJECT: Charter Changes Police Commission

DATE: 5/1/2024

RECOMMENDATION

Councilmembers Jenkins recommends that the City Council adopt a resolution

RESOLUTION ON THE CITY COUNCIL'S OWN MOTION SUBMITTING TO THE VOTERS FOR THE NOVEMBER 5, 2024 GENERAL MUNICIPAL ELECTION A MEASURE THAT WOULD AMEND CITY CHARTER SECTION 604 TO, AMONG OTHER THINGS:

- **SIMPLIFY THE PROCESS FOR APPOINTING POLICE COMMISSIONERS BY HAVING NINE REGULAR POLICE COMMISSIONERS THAT ARE APPOINTED ONE EACH BY THE COUNCILMEMBERS AND THE MAYOR;**
- **STRENGTHEN THE INDEPENDENCE OF THE OFFICE OF INSPECTOR GENERAL BY HAVING THE CITY AUDITOR, RATHER THAN THE POLICE COMMISSION, APPOINT THE INSPECTOR GENERAL;**
- **STREAMLINE THE PROCESS FOR RECRUITING AND HIRING POLICE CHIEFS BY RESTORING THE AUTHORITY THAT THE CITY ADMINISTRATOR PREVIOUSLY HAD FOR POLICE CHIEFS AND STILL HAS FOR VIOLENCE PREVENTION CHIEFS, FIRE CHIEFS, AND THE HEADS OF OTHER IMPORTANT DEPARTMENTS; AND**
- **CLARIFY THAT THE COMMUNITY POLICE REVIEW AGENCY CAN INVESTIGATE ANY ALLEGATION OF POLICE MISCONDUCT, NO MATTER THE SOURCE OF THE COMPLAINT;**

AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION, AND TO TAKE ANY AND ALL OTHER ACTIONS

City Council (or Committee)
Meeting Date

**NECESSARY UNDER LAW TO PREPARE FOR AND CONDUCT THE
NOVEMBER 5, 2024 GENERAL MUNICIPAL ELECTION**

EXECUTIVE SUMMARY

Background and Evolution of Oversight Since its establishment in 1980, the Citizens' Police Review Board in Oakland has undergone several key transformations to strengthen civilian oversight of the Oakland Police Department (“OPD”). The initial mandate was expanded in 1996 to include oversight on issues like excessive use of force and bias based on legally protected characteristics. Further refinements in 2002 enhanced the Board's advisory capabilities, although it lacked the power to enforce policy changes or disciplinary actions directly.

Significant Milestones The turning point in civilian oversight was marked by the passage of Measure LL in 2016, following nearly thirteen years of the Negotiated Settlement Agreement (“NSA”) due to the Riders case in 2003, which saw severe police misconduct. Measure LL established the Police Commission and the Community Police Review Agency (“CPRA”), empowering them with broader oversight, including policy supervision and disciplinary recommendations. In 2020, the introduction of Measure S1 and the establishment of the Office of Inspector General (“OIG”) further defined and expanded the scope of oversight, aiming to enhance the thoroughness of misconduct investigations and systemic reviews of police practices.

Current Challenges and Proposed Changes Nearly eight years since the passage of Measure LL, and the nearly 4 years since the passage of Measure S1, it is clear that Oakland can continue to improve the efficacy and independence of police oversight. Namely, the structure of the Police Commission and the appointment process for the Inspector General have posed challenges. The current system requires a complex selection process involving a nine-person panel and has been criticized for its inefficiency and potential biases in appointments. Proposals suggest simplifying this process by allowing direct appointments by City Council members and the Mayor, enhancing transparency and reducing administrative burdens.

Moreover, to address potential conflicts of interest, it is proposed that the Inspector General, who is currently appointed by the Police Commission, should instead be appointed by the independent, elected City Auditor. This change aims to bolster the OIG's autonomy and the public's trust by ensuring a more impartial oversight mechanism.

Similarly, the process for appointing a Police Chief has proven to be unnecessarily complicated, fraught, and drawn out. The process results in longer periods without a permanent Police Chief, and likely makes high-caliber candidates reluctant to even apply. Proposals suggest simplifying

the process, to allow the City Administrator to run the recruitment and make the appointment, but only after getting input from stakeholders, including Police Commission representatives.

Proposed Measure for the November 2024 Election

- **Simplify the Police Commission Appointments:** Transitioning to direct appointments of Police Commissioners by the City Council members and the Mayor to streamline the process and enhance governance efficiency.
- **Strengthen OIG Independence:** Assigning the appointment of the Inspector General to the City Auditor to ensure greater impartiality and operational independence.
- **Streamline Police Chief Recruitment:** Restoring the City Administrator's authority over the hiring of the police chief, consistent with the appointments of other key department heads, to streamline hiring processes and enhance administrative continuity.
- **Clarify CPRA Authority:** Making it clear that the Community Police Review Agency has the authority to investigate all allegations of police misconduct regardless of the complaint source, enhancing the scope and effectiveness of investigations.

Importance of Reforms The proposed reforms are vital for maintaining public trust and ensuring effective civilian oversight of the Oakland Police Department. By streamlining appointment processes and enhancing the independence of oversight bodies, these changes aim to improve the responsiveness and accountability of the police force, thereby fostering safer community-police relations and upholding constitutional policing standards in Oakland.

REASON FOR SUPPLEMENTAL OR REPLACEMENT *(If Applicable)*

BACKGROUND / LEGISLATIVE HISTORY

On April 15, 1980, the City Council established the Citizens' Police Review Board (hereinafter, Board) with jurisdiction to review certain complaints alleging Oakland Police Department officer misconduct, to conduct fact-finding investigations, and to make advisory reports to the City Administrator.

On July 30, 1996, the City Council expanded the Board's jurisdiction to include complaints involving the excessive use of force, and bias based on an individual's legally protected status (race, gender, national origin, religion, sexual orientation or disability).

On November 12, 2002, the City Council passed Ordinance No. 12454 C.M.S., which further refined the Board's powers to include making recommendations to the City Administrator regarding litigated cases, and enlarged the amount of time for the Board to complete its

investigations. The Board, however, was not empowered to oversee Department policy, impose discipline or adjudicate disciplinary appeals.

In 2003, *Delphine Allen, et al. v. City of Oakland* (the Riders case) multiple Police Department officers violated plaintiffs' civil rights and were found to have planted evidence and used excessive force, ultimately resulting in the NSA.

On November 8, 2016, Oakland voters approved Measure LL (83.19%), adding section 604 to the City Charter and establishing: (1) a Police Commission to oversee OPD policies and procedures; and (2) the Community Police Review Agency (CPRA) to investigate police misconduct and recommend discipline

On November 3, 2020, Oakland voters approved Measure S1, creating a civilian Office of Inspector General, and further defining the authority of the Police Commission and the CPRA

REQUIRED LEGISLATIVE FOLLOW-UP

N/A

ANALYSIS AND POLICY ALTERNATIVES

FISCAL IMPACT

There is no fiscal impact identified

PUBLIC OUTREACH / INTEREST

This legislation is driven by widespread public concern around amending the charter to make the police commission more efficient.

COORDINATION

This legislation was crafted with the Office of the City Attorney, and City Council District 6 Office

ACTION REQUESTED OF THE CITY COUNCIL

Councilmembers Jenkins recommends that the City Council:

**ADOPT RESOLUTION ON THE CITY COUNCIL'S OWN MOTION
SUBMITTING TO THE VOTERS FOR THE NOVEMBER 5, 2024
GENERAL MUNICIPAL ELECTION A MEASURE THAT WOULD
AMEND CITY CHARTER SECTION 604 TO, AMONG OTHER THINGS:**

- **SIMPLIFY THE PROCESS FOR APPOINTING POLICE COMMISSIONERS BY HAVING NINE REGULAR POLICE COMMISSIONERS THAT ARE APPOINTED ONE EACH BY THE COUNCILMEMBERS AND THE MAYOR;**

- **STRENGTHEN THE INDEPENDENCE OF THE OFFICE OF INSPECTOR GENERAL BY HAVING THE CITY AUDITOR, RATHER THAN THE POLICE COMMISSION, APPOINT THE INSPECTOR GENERAL;**
- **STREAMLINE THE PROCESS FOR RECRUITING AND HIRING POLICE CHIEFS BY RESTORING THE AUTHORITY THAT THE CITY ADMINISTRATOR PREVIOUSLY HAD FOR POLICE CHIEFS AND STILL HAS FOR VIOLENCE PREVENTION CHIEFS, FIRE CHIEFS, AND THE HEADS OF OTHER IMPORTANT DEPARTMENTS; AND**
- **CLARIFY THAT THE COMMUNITY POLICE REVIEW AGENCY CAN INVESTIGATE ANY ALLEGATION OF POLICE MISCONDUCT, NO MATTER THE SOURCE OF THE COMPLAINT;**

AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION, AND TO TAKE ANY AND ALL OTHER ACTIONS NECESSARY UNDER LAW TO PREPARE FOR AND CONDUCT THE NOVEMBER 5, 2024 GENERAL MUNICIPAL ELECTION

For questions regarding this report, please contact Dyana Delfin Polk, Policy Coordinator at Dpolk@oaklandca.gov

Respectfully submitted,



Kevin Jenkins
District 6

Prepared by:
Dyana Delfin Polk, Policy Coordinator

Attachments (#): *(If Applicable)*

City Council (or Committee)
Meeting Date

Honorable Mayor & City Council

Subject: (Same as page 1)

Date: (Same as page 1)

Page 6
